AX A-1

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

PAUL D. JOHNSON; KEVIN WADSWORTH; TED COOPER; LAUREN COOPER; RAY SEBASTIAN,
Plaintiffs-Appellants,

v. No. 96-15852

DAVID KNOWLES; REPUBLICAN CENTRAL COMMITTEE OF EL DORADO COUNTY; STEVEN BAILEY; ROBERT BECKER; ED BORBA; BERNARD CARLSON; MERLIN CHARDI; CHRISTINA COWELL; CHARLES CHRISMAN; DAN DELLINGER; TOM EMIGH; MICHAEL FRENN; MALOA GRIBKOFF; KEVIN HANLEY; TOM SCHUMACHER; JOHN STELZMILLER; LAVETA STELZMILLER; DAVID TITUS,
Defendants-Appellees.

D.C.No. CV-95-00835 MLS (PAN)

OPINION

Appeal from the United States District Court
for the Eastern District of California
Milton L. Schwartz, District Judge, Presiding

Argued and Submitted
April 16, 1997 - San Francisco,California

Filed May 21, 1997

Before: Charles E. Wiggins, John T. Noonan, and Stephen S. Trott, Circuit Judges.
Opinion by Judge Trott

OPINION

TROTT, Circuit Judge:

OVERVIEW

Paul Johnson and Kevin Wadsworth, a gay couple, and a putative class of El Dorado County, California Republicans who elected Johnson and Wadsworth to the County's Republican party central committee (collectively, the "Plaintiffs") appeal the district court's order dismissing their 42 U.S.C. §1983 action for failure to state a claim.[1] They alleged in their Complaint that David Knowles - a member of the California Assembly and *ex officio* member of the El Dorado County Republican Party Central Committee (the "Committee") - and 16 other Committee members (collectively, the "Defendants") conspired to oust Johnson and Wadsworth from their elected posts on the Committee because of their sexual orientation. This conduct, the Plaintiffs contend, violated their First Amendment rights to free speech and participation in the political process and their Fourteenth Amendment right to equal protection.

The district court ruled that the Committee's conduct was not action "under color of state law" and dismissed their claim under Federal Rule of Civil Procedure 12(b)(6). We have jurisdiction under 28 U.S.C. S 1291, and we affirm.

BACKGROUND

Since 1978, Paul Johnson and Kevin Wadsworth have lived

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[1]The motion of the Bay Area Lawyers for Individual Freedom to file a brief as amicus curiae is denied.

together as exclusive life partners in a homosexual relationship.[2] For more than ten years, they have been active members of the California Republican Party, registering to vote as Republicans and serving on several Republican central committees in California.

Under the California Elections Code, members of county central committees are elected every two years at the direct primary election. Cal. Elec. Code §7420. In both 1992 and 1994, Johnson and Wadsworth ran for and were elected to the El Dorado County Republican Central Committee. In these elections, they each received approximately 1500 votes.

Johnson and Wadsworth own and reside at the Lone Antler Ranch in El Dorado County. On August 25, 1994, they leased part of the ranch to the "Katie Hirning for Congress Campaign" for a fundraiser for Katie Hirning, the Democratic candidate in the November 1994 California Fourth Congressional District election. The "Katie Hirning for Congress Campaign" paid $100 to use the ranch. Neither Johnson nor Wadsworth participated in the fundraiser.

Defendant David Knowles is an elected Republican member of the California Assembly for the Fourth Assembly District. By virtue of his status as the Republican party nominee for the Assembly, Knowles also is an *ex officio* member of the Committee. Cal. Elec. Code §7404(a). According to the Plaintiffs, Knowles actively worked to remove Johnson and Wadsworth from the Committee be-

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[2]The facts discussed herein are taken from the allegations in the Plaintiffs' First Amended Complaint. For purposes of this appeal, we assume these facts are true. *Smith v. Jackson, 84 F.3d 1213, 1217 (9th Cir. 1996).*

cause of his alleged prejudice against homosexuals. He allegedly vowed to "get rid of those faggots" and used his power and influence as an Assemblyman to bring about their ouster.

On September 12, 1994, the Committee held a regularly scheduled meeting and, in the absence of Johnson and Wadsworth,[3] voted 13 to 1 with 3 abstentions to remove Johnson and Wadsworth from the Committee for providing support to Democratic candidates (i.e., for renting their ranch to the Hirning campaign). Although Knowles was not present at the meeting, he allegedly instructed other committee members to vote in favor of Johnson's and Wadsworth's removal. The Committee had not provided Johnson and Wadsworth with any notice that action was to be taken against them at this meeting.

Following the ouster, Johnson resigned his Republican party membership in disgust and re-registered as a Democrat. Wadsworth, however, continued as a Republican and, in January 1995, took his seat on the Committee that he had won in the June 1994 primary.[4]

On January 9, 1995, the new Committee held its organizational meeting. Wadsworth was sworn in to his new, elected seat on the Committee. The Committee elected officers, and, over Wadsworth's objection on the ground of

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[3]Johnson was in Ohio attending his father's funeral. Wadsworth left the meeting early because he had undergone medical treatment earlier that day and had begun to feel ill.

[4]Wadsworth was ousted from the seat that he won in the 1992 primary. At the time of his ouster, however, he had already been elected to the Committee in the 1994 primary. Thus, he was able to rejoin the Committee after his ouster as a newly-elected member.

inadequate notice, adopted new bylaws, including a provision for disciplinary procedures that enabled the Committee to remove members whose actions were deemed "injurious to the Committee." At the end of the meeting, Defendant Tom Emigh, a Committee member, indicated that he would seek Wadsworth's removal at the next scheduled Committee meeting.

On February 13, 1995, at the next Committee meeting, Defendant Emigh moved to remove Wadsworth. The Committee voted 9 to 3, with 1 abstention, to remove Wadsworth. Although Knowles was not present at the meeting and did not vote for Wadsworth's removal, he allegedly instructed, prevailed upon, or otherwise influenced other Committee members to vote for Wadsworth's removal. The Committee's stated grounds for Wadsworth's removal included Wadsworth's alleged public criticism of the Committee and his alleged support of Hirning's campaign. Knowles, however, allegedly told Defendant Tom Schumacher, a Committee member, that he encouraged Wadsworth's removal because of his homosexuality.

STANDARD OF REVIEW

We review de novo a dismissal for failure to state a claim pursuant to Federal Rule of Civil Procedure 12(b)(6). *Lewis v. Telephone Employees Credit Union*, 87 F.3d 1537, 1545 (1996). A complaint should not be dismissed unless it appears beyond doubt that the Plaintiffs can prove no set of facts in support of their claim that would entitle them to relief. *Id.* In reviewing the dismissal, we must take all allegations of material fact in the Complaint as true and construe them in the light most favorable to the Plaintiffs. *Smith,* 84 F.3d at 1217.

DISCUSSION

To state a claim for relief under section 1983, the Plaintiffs must plead two essential elements: 1) that the Defendants acted under color of state law; and 2) that the Defendants caused them to be deprived of a right secured by the Constitution and laws of the United States. *Howerton v. Gabica,* 708 F.2d 380, 382 (9th Cir. 1983). Because the Plaintiffs have failed to show that the Defendants acted under color of state law and fail to point to any way that such action can be shown, we affirm the district court's order dismissing the Plaintiffs' claim with prejudice.

I. Assemblyman Knowles

A person acts under color of state law if he "exercise[s] power 'possessed by virtue of state law and made possible only because the wrongdoer is clothed with the authority of state law.'" *West v. Atkins,* 487 U.S. 42, 49 (1988) (quoting *United States v. Classic,* 313 U.S. 299, 326 (1941)). "[G]enerally, a public employee acts under color of state law while acting in his official capacity or while exercising his responsibilities pursuant to state law." *Dang Vang v. Vang Xiong X. Toyed,* 944 F.2d 476, 479 (9th Cir. 1991).

There is no doubt that Knowles, in his capacity as a member of the California Assembly, is a public official. But even as a public official, Knowles's alleged wrongful actions are not taken under color of state law if they are " 'not in any way related to the performance of [his] duties'" as a public official. *Id.* (quoting *Murphy v. Chicago Transit Auth.*, 638 F.Supp. 464, 467 (N.D. Ill. 1986)). Thus, we must determine whether Knowles's actions related to the duties and powers of his position as an Assemblyman or instead related to his role as a member of the Republican

party.

Knowles's *ex officio* membership on the Committee derives from his position as the Republican nominee for the Assembly, not from his status as a California Assemblyman. Cal. Elec. Code §7404. As an *ex officio* Committee member, Knowles has the same rights and powers as the other Committee members, with one immaterial exception: As an incumbent office holder, Knowles can appoint an alternate Committee member to vote in his stead without the Committee's authorization. Cal. Elec. Code §7406. Thus, Knowles's status as an Assemblyman gives him no direct power over the Committee and its actions; he has no greater power on the Committee as an Assemblyman than any other Committee member has as an elected member.

The Plaintiffs argue that Knowles's Assemblyman status enabled him to exercise greater influence over the Committee. But the mere fact that the prestige of Knowles's office may have enhanced his influence over the Committee is not enough to convert his actions into state action. "[A]ll actions of a government official are not, simply by virtue of the official's governmental employ, accomplished under the color of federal law." *Laxalt v. McClatchy*, 622 F.Supp. 737, 746 (D. Nev. 1985) (holding that a United States Senator did not act under color of law when he wrote a letter on Senate stationery demanding retraction of a newspaper article).

In sum, Knowles acted against Johnson and Wadsworth only in his capacity as a member of the Committee and a nominee of the Republican party, not in his official capacity as a state Assemblyman. Thus, as the district court concluded, Knowles's actions should be evaluated on the same terms as the other Committee members for purposes of

determining whether, under the alleged circumstances, he acted under color of state law.

II. The Committee Members

Under the law of this circuit, county central committees of political parties are private actors, not public agencies, even though they are regulated by the state. *See San Francisco County Democratic Cent. Comm. v. Eu*, 826 F.2d 814 (9th Cir. 1987) (rejecting argument that county central committees of the Republican and Democratic parties are public entities that do not enjoy First Amendment protection), *aff'd*, 489 U.S. 214 (1989). The Plaintiffs argue, however, that even if the Committee is itself a private actor, the State of California's significant involvement in the regulation of the Committee and its election and removal processes converted the Committee's action against Johnson and Wadsworth into action under color of state law.

"Action taken by private individuals may be 'under color of state law' where there is 'significant' state involvement in the action." *Howerton*, 708 F.2d at 382. Although section 1983's under-color-of-state-law requirement is technically separate from the Fourteenth Amendment's state-action requirement, the two inquiries are closely related. *Collins v. Womancare*, 878 F.2d 1145, 1148 (9th Cir. 1989). Because the Plaintiffs are required to establish state action for purposes of their constitutional claims, we treat the under-color-of-state-law requirement and the state-action requirement as equivalent. *Id.*

The Supreme Court has articulated four distinct tests for determining when the actions of a private individual amount to state action: (1) the public function test; (2) the joint action test; (3) the state compulsion test; and (4) the

governmental nexus test. *Id.* at 1148-49; see also *George v. Pacific-CSC Work Furlough*, 91 F.3d 1227, 1231 (9th Cir. 1996).

A. The Public Function Test

The Supreme Court has found state action present "in the exercise by a private entity of powers traditionally exclusively reserved to the State." *Jackson v. Metropolitan Edison Co.*, 419 U.S. 345, 352 (1974). One such power that the Supreme Court has recognized as traditionally exclusively sovereign is the power to conduct elections for public officials. *Flagg Brothers, Inc. v. Brooks,* 436 U.S. 149, 157 -58 (1978).

The Plaintiffs argue that they were elected to their Committee offices via the primary election ballot and that the Defendants' actions in ousting them nullified the election result. Because the Defendants' conduct interfered with an election, the Plaintiffs argue that the Defendants exercised a public function.

As the district court concluded, the Plaintiffs' argument stretches the public function test too far. The Supreme Court has explicitly noted that the scope of the public function doctrine is carefully and narrowly defined. *Flagg Brothers,* 436 U.S. at 158. "The doctrine does not reach to all forms of private political activity, but encompasses only state-regulated elections or elections conducted by organizations which in practice produce 'the uncontested choice of public officials.'" *Id.* (emphasis added). Cases in which the Supreme Court has applied the public function doctrine all have involved challenges to the electoral process for electing public officials. See *Terry v. Adams*, 345 U.S. 461, 469 (1953) (holding that Democratic party's rules for the

primary constituted state action where the primary "ha[d] become an integral part, indeed the only effective part, of the elective process that determines who shall rule and govern in the country"); *Smith v. Allwright*, 321 U.S. 649, 664 (1944) (holding that a party primary involves state action where the state "requires a certain electoral procedure, prescribes a general election ballot made up of party nominees and limits the choices of the electorate in general elections for state offices, practically speaking, to those whose names appear on such a ballot").

The Defendants' actions do not satisfy the public function test for two reasons. First, the Plaintiffs do not allege that the Defendants violated their constitutional rights by conducting an election in an unconstitutional manner. Rather, they challenge only the Defendants' actions in removing Johnson and Wadsworth from their positions on the Committee. Second, the Plaintiffs do not allege that the Defendants interfered with an election for public office. Although the Plaintiffs were elected to their positions on the Committee through the primary election ballot, they were not elected to public offices, but only to private positions within the Republican party. *See Moore v. Panish*, 32 Cal.3d 535, 545 (Cal. 1982) (membership in a political party's county central committee is not a public office, but in reality is an office of a political party).

The Plaintiffs suggest that "the public office/private post distinction should not control here," but they offer no reasoned basis for ignoring such an important distinction. The management and internal rules of a private political party are not powers "traditionally exclusively reserved to the state." *Jackson*, 419 U.S. at 352. In fact, the Supreme Court has held that, absent a compelling state interest, political parties are entitled to organize themselves, conduct their

affairs, and select their leaders in the manner they think best, without any interference from the State. *Eu,* 489 U.S. at 230. Thus, the Defendants' actions do not constitute state action under the public function test.

B. The Joint Action Test

The joint action test for state action is met where private persons are "willful participant[s] in joint activity with the State or its agents" that effects a constitutional deprivation. *Howerton,* 708 F.2d at 383. An agreement between government and a private party can create state action. *George,* 91 F.3d at 1231. The Plaintiffs argue that the Committee members conspired with Assemblyman Knowles, a state agent, and thereby acted under color of state law in depriving them of their First and Fourteenth Amendment rights.

Because Knowles acted against Johnson and Wadsworth in his capacity as a member of the Republican party, not in his capacity as an Assemblyman, the Committee's conduct cannot satisfy the joint action test. The Plaintiffs have not alleged any conspiracy between the Committee members and a government actor.

C. The State Compulsion Test

State action may be found under the state compulsion test where the state has "exercised coercive power or has provided such significant encouragement, either overt or covert, that the [private actor's] choice must in law be deemed to be that of the State." *Blum v. Yaretsky,* 457 U.S. 991, 1004 (1982). The Plaintiffs argue that, by relying on section 7413 of the California Elections Code, which states that"[a] committee may remove any member ... who gives

support ... for a candidate for another party," the Plaintiffs received "covert, if not outright encouragement from the state for their actions."

Section 7413 in no way compelled or encouraged the Committee to remove Johnson and Wadsworth on the basis of their sexual orientation. It merely authorized the Committee to remove members if they supported other-party candidates, a lawful and legitimate basis for removal. This authorization to remove Committee members for legitimate reasons cannot convert the Committee's alleged discriminatory removal into state action.

In *Jackson,* the Supreme Court rejected a similar argument that state regulations authorizing utilities to terminate service for non-payment converted the utilities' actions into state action. The Court stated: "[The utilities'] exercise of the choice allowed by state law where the initiative comes from it and not from the State does not make its action in so doing 'state action' for purposes of the Fourteenth Amendment." 419 U.S. at 357.

The Plaintiffs' reliance on *Adickes v. Kress,* 398 U.S. 144 (1977), is misplaced. In *Adickes*, a department store refused to serve a Caucasian teacher at its lunch counter because she was accompanied by her black students. *Id.* at 147. The Supreme Court held that she could state a claim against the department store under section 1983 if she could prove that the department store refused her service because of a state enforced custom of racial segregation. *Id.* at 170. Despite their assertion that Adickes is "similar to this appeal," the Plaintiffs point to no state-enforced custom of removing Committee members on the basis of homosexuality. Adickes simply bears no similarity to the present case.

In short, the Plaintiffs cannot point to any state regulation or custom having the force of law that compelled, coerced, or encouraged the Defendants to discriminate against the Plaintiffs. Any initiative in removing the Plaintiffs on this basis came from the Committee members, not from the State. Thus, the Defendants' actions do not satisfy the state compulsion test.

D. The Nexus Test

Finally, under the nexus test, we must consider whether there is a "sufficiently close nexus between the State and the challenged action of the regulated entity so that the action of the latter may be fairly treated as that of the State itself." *Jackson,* 419 U.S. at 351. The only relationship between the state and the Committee alleged by the Plaintiffs is that the state regulates the Committee through the California Elections Code.

"The mere fact that a [private actor] is subject to state regulation does not by itself convert its action into that of the state for purposes of the Fourteenth Amendment." Id. at 350. The Plaintiffs allege no facts that demonstrate that "the state ha[s] so far insinuated itself into a position of interdependence" with the Committee that it was a joint participant in the Committee's discrimination. *Burton v. Wilmington Parking Auth.,* 365 U.S. 715, 725 (1961) (holding that restaurant's refusal to serve African Americans was state action where restaurant leased space in building owned by the state). Thus, the Plaintiffs have not shown state action under the nexus test.

CONCLUSION

The El Dorado County Republican Central Committee is a private political organization, not a government actor. Although the Committee conceivably could act under color of state law for some purposes, there is nothing tying the State of California to the particular decision that the Plaintiffs challenge, namely, the Committee's decision to oust Johnson and Wadsworth from the Committee on the basis of their sexual orientation. Every court that has considered similar section 1983 claims has reached this conclusion. *See, e.g., Banchy v. Republican Party of Hamilton County,* 898 F.2d 1192 (6th Cir. 1990) (Republican party did not act under color of state law in precluding members from voting for ward chairmen because of their right-to-life views); *Blank v. Heineman,* 771 F. Supp. 1013 (D. Neb. 1991) (elected officers of Republican Party did not act under color of state law in removing officers because of their evangelical Christian beliefs).

The Plaintiffs have not alleged facts showing that the Defendants acted under color of state law. Thus, we affirm the district court's order dismissing the Plaintiffs' section 1983 claim. Because we affirm on this ground, we do not reach the Defendants' alternative argument that the Plaintiffs also failed to allege violations of their First and Fourteenth Amendment rights.

AFFIRMED.

AX B-1

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

PAUL D. JOHNSON; KEVIN WADSWORTH; TED COOPER; LAUREN COOPER; RAY SEBASTIAN,

Plaintiffs-Appellants,

v.

DAVID KNOWLES; REPUBLICAN CENTRAL COMMITTEE OF EL DORADO COUNTY; STEVEN BAILEY; ROBERT BECKER; ED BORBA; BERNARD CARLSON; MERLIN CHARDI; CHRISTINA COWELL; CHARLES CHRISMAN; DAN DELLINGER; TOM EMIGH; MICHAEL FRENN; MALOA GRIBKOFF; KEVIN HANLEY; TOM SCHUMACHER; JOHN STELZMILLER; LAVETA STELZMILLER; DAVID TITUS,

Defendants-Appellees.

[FILED JUL -2 1997]

No. 96-15852

D.C.No. CV-95-00835 MLS (PAN)

ORDER

Before: Charles E. Wiggins, John T. Noonan, and Stephen S. Trott, Circuit Judges.

The parties shall file within 21 days of the date of this order simultaneous briefs on the question of whether this case should be reheard en banc. Forty (40) copies of the briefs shall be filed.

AX C-1

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

PAUL D. JOHNSON; KEVIN WADSWORTH; TED COOPER; LAUREN COOPER; RAY SEBASTIAN,

Plaintiffs-Appellants,

v.

DAVID KNOWLES; REPUBLICAN CENTRAL COMMITTEE OF EL DORADO COUNTY; STEVEN BAILEY; ROBERT BECKER; ED BORBA; BERNARD CARLSON; MERLIN CHARDI; CHRISTINA COWELL; CHARLES CHRISMAN; DAN DELLINGER; TOM EMIGH; MICHAEL FRENN; MALOA GRIBKOFF; KEVIN HANLEY; TOM SCHUMACHER; JOHN STELZMILLER; LAVETA STELZMILLER; DAVID TITUS,

Defendants-Appellees.

[FILED SEP 10 1997]

No. 96-15852

D.C.No. CV-95-00835 MLS (PAN)

ORDER

Before: Wiggins, Noonan, and Trott, Circuit Judges.

The full court was advised of the suggestion for rehearing en banc. An active judge requested a vote on whether to rehear the matter en banc. The matter failed to receive a majority of the votes of the nonrecused active judges in favor of en banc consideration. Fed. R. App. P. 35(b).

Appellant's [sic] petition for rehearing is DENIED and the suggestion for rehearing en banc in REJECTED.

STATUTORY PROVISIONS INVOLVED

42 USC §1983 provides:

> Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State ... , subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress. ...

42 USC §1985(3) provides:

> If two or more persons in any State ... conspire ... for the purposes of depriving, either directly or indirectly, any person or class of persons of the equal protection of the laws, or of equal privileges and immunities under the laws; or for the purposes of preventing or hindering the constituted authorities of any State ... from giving or securing to all persons within such State ... the equal protection of the laws; or if two or more persons conspire to prevent by force, intimidation, or threat, any citizen who is lawfully entitled to vote, from giving his support or advocacy in a legal manner, toward or in favor of the election of any lawfully qualified person as an elector for President or Vice-President, or as a Member of Congress of the United States; or to injure any citizen in

person or property on account of such support or advocacy; in any case of conspiracy set forth in this section, if one or more persons engaged therein do, or cause to be done, any act in furtherance of the object of such conspiracy, whereby another is injured in his person or property, or deprived of having and exercising any right or privilege of a citizen of the United States, the party so injured or deprived may have an action for the recovery of damages, occasioned by such injury or deprivation, against any one or more of the conspirators.

42 USC §1986 provides:

Every person who, having knowledge that any of the wrongs conspired to be done, and mentioned in section 1985 of this title, are about to be committed, and having power to prevent or aid in preventing the commission of the same, neglects or refuses to do so, if such wrongful act be committed, shall be liable to the party injured, or his legal representatives, for all damages caused by such wrongful act, which such person by reasonable diligence could have prevented; and such damages may be recovered in an action on the case; and any number of persons guilty of such wrongful neglect or refusal may be joined as defendants in the action; and if the death of any party be caused by any such wrongful act and neglect, the legal representatives of the deceased shall have such action therefor, and may recover

not exceeding $5,000 damages therein, for the benefit of the widow of the deceased, if there be one, and if there be no widow, then for the benefit of the next of kin of the deceased. But no action under the provisions of this section shall be sustained which is not commenced within one year after the cause of action has accrued.

AX E-1

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

PAUL JOHNSON, KEVIN WADSWORTH, TED COOPER, LAUREN COOPER, RAY SEBASTIAN & BARBARA SEBASTIAN, individually and on behalf of all others similarly situated,	CIV-S-95-835 MLS (PAN) FIRST AMENDED CLASS ACTION COMPLAINT

Plaintiffs,

v.

DAVID KNOWLES; REPUBLICAN CENTRAL COMMITTEE OF EL DORADO COUNTY; STEVEN BAILEY; ROBERT BECKER; ED BORBA; BERNARD CARLSON; MERLIN CHARDI; CHRISTINA COWELL; CHARLES CHRISMAN; DAN DELLINGER; SUSAN EMIGH; TOM EMIGH; MICHAEL FRENN; MALOA GRIBKOFF; KEVIN HANLEY; TOM SCHUMACHER; JOHN STELZMILLER; LAVETA STELZMILLER; DAVID TITUS and DOES 1 - 25, inclusive,

Defendants./

INTRODUCTORY ALLEGATIONS

1. Jurisdiction herein is based on 28 USC §§1331, 1343, 1357, 1367 2201 and venue is proper in this district because all Defendants, named and unnamed, reside herein.

2. At all times herein mentioned, Defendant REPUBLICAN CENTRAL COMMITTEE OF EL DORADO COUNTY (Central Committee) was and is a political organization subject to the laws of this State and of the United States, organized, existing and operating solely by virtue of, under and in furtherance of the laws of this State, including, but not limited to, Cal. Elections Code (CEC) §§7250-7470 and 18540-18700, whose chairman is Defendant DAVID TITUS and whose meetings are held at 3161 Cameron Park Drive, Suite 107, Cameron Park, CA. Membership in the Central Committee is composed primarily by the election thereto of registered members of the Republican Party resident in El Dorado County by their fellow Republican electors resident in El Dorado County voting in primary elections noticed, organized, conducted, supervised and officially reported by the State of California. Membership in the Central Committee is recognized as a de facto prerequisite to higher office, both elected and appointed, within the Republican Party at the county, state and national levels, and within municipal, county, state and national government, and thereby benefits government by providing it with a pool of persons presumably experienced in the workings of the democratic process within the republican form of government guaranteed by the Constitution of, and throughout, the United States. Running and casting and receiving votes for membership on the Central Committee is also a legitimate exercise of the most elementary form of participatory democracy in a local forum as guaranteed by the I and XIV Amendments to the U.S. Constitution protecting the fundamental rights of voting, assembling and petitioning for redress and participating equally in the political process.

3. Plaintiffs are informed and believe, and allege thereon, that at all times herein mentioned, Defendants

STEVEN BAILEY; ROBERT BECKER; ED BORBA; BERNARD CARLSON; MERLIN CHARDI; CHRISTINA COWELL; CHARLES CHRISMAN; DAN DELLINGER; SUSAN EMIGH; TOM EMIGH; MICHAEL FRENN; MALOA GRIBKOFF; KEVIN HANLEY; TOM SCHUMACHER; JOHN STELZMILLER; LAVETA STELZMILLER and DAVID TITUS were and/or are duly elected, alternate or appointed members of Defendant Central Committee and were acting under and in furtherance of the laws of this State, including, but not limited to, CEC §§7250-7470 and 18540-18700. Plaintiffs are similarly informed and believe that Defendant DAVID KNOWLES is an elected Republican member of the California Assembly for the 4th Assembly District who has and continues to maintain his local legislative office at 3161 Cameron Park Drive, Suite 214, Cameron Park, CA, which suite number Plaintiffs are informed, believe and allege thereon does not exist separately from Suite 107, per the records of the El Dorado County Assessor. Plaintiffs also are informed, believe and expect to discover facts supporting their further allegation that by virtue of his status as a member of the California Assembly, Defendant KNOWLES has the right and power to appoint members to the Central Committee under CEC §§7250-7470 and, using that power, exercised influence, direct and indirect, over the decisions, workings and administration of the Central Committee relevant hereto, as evidenced by his January, 1993, appointment of Defendant LAVETA STELZMILLER to the Central Committee, by his directing his former legislative aide Defendant BECKER and other members of his legislative staff, on the "official" time and expense of the California State Assembly, to vote against adoption of the Central Committee's 1994 platform drafted by Plaintiff WADSWORTH and to thereafter bring about the ouster of Plaintiffs JOHNSON and WADSWORTH from the Central Commit-

tee and by his directing the placement of campaign signs and literature supporting himself displayed to the public and within the premises of Suite 107/214 of 3161 Cameron Park Drive, Cameron Park, CA, in violation of those statutes and bylaws of El Dorado County and of the State of California prohibiting such politicking in Central Committee offices, but acquiesced to by certain members of the Central Committee, including but not limited to Defendants herein. Said Defendants are sued individually, without prejudice to Plaintiffs' right to recover and/or satisfy judgment against them or any other defendant.

4. Plaintiffs are ignorant of the true names and capacities of Defendants sued herein as DOES 1 through 25, inclusive, and therefore sues these Defendants by such fictitious names. Plaintiffs will amend this complaint to allege such Defendants' true names and capacities when ascertained. Plaintiffs are informed and believe, and allege thereon, that each such Defendant resides in this district, is responsible in some manner for the occurrences herein alleged and that Plaintiffs' damages were proximately caused by their conduct, acts and/or omissions.

5. Plaintiffs are informed and believe, and allege thereon, that named and DOE Defendants are, and at all times herein mentioned were, the agents and co-conspirators of their co-defendants, and in doing the things alleged herein were acting within the course and scope of such agency and conspiracy and with the supervision, permission, instruction and consent, express or implied, of said co-defendants.

6. From September, 1978, and at all times since, Plaintiffs PAUL JOHNSON and KEVIN WADSWORTH have been, and have held themselves out to third parties as,

exclusive life partners in a loving relationship; have shared living expenses, space and resources; have exchanged religious vows of commitment to each other; have traveled and vacationed together; and, more recently, have filed income tax returns consistent with their relationship and have made provisions by testamentary disposition to care for the other in the event either is incapacitated. Each is sole heir to the estate of the other, an estate held in joint tenancy.

7. Plaintiffs JOHNSON and WADSWORTH had or have been longtime (10+ years), members of the California Republican party, registered to vote thereunder and previously serving with distinction on other Central Committees in this state, and were, in 1992 and 1994, elected and reelected by their fellow Republicans of El Dorado County, Supervisorial District III, including, but not limited to Plaintiffs TED COOPER, LAUREN COOPER, RAY SEBASTIAN & BARBARA SEBASTIAN, to two-year seats on Defendant Central Committee, which seats they held with integrity and dedication from January, 1993, until ousted therefrom by Defendants as pled below. JOHNSON and WADSWORTH received in the June, 1994, primary election 1,585 and 1,562 votes, respectively and they are informed, believe and recall that they received a substantially similar number of votes in the June, 1992, primary election as well. JOHNSON and WADSWORTH won the June, 1994, primary election despite the best efforts of certain of their colleagues on the Central Committee and other California Republicans, including but not limited to Defendants KNOWLES and CARLSON, who vowed "We've got to get rid of those faggots," and actively worked to do so. (A true and correct copy of relevant portions of the results of the June, 1994, El Dorado primary election is attached hereto as Exhibit C.)

8. Together, Plaintiffs JOHNSON and WADSWORTH own and reside at the premises known as The Lone Antler Ranch (Ranch), located in El Dorado County. Plaintiffs occasionally rent portions of the Ranch to persons or groups for receptions, fundraising and other legitimate purposes for profit, without discriminating therein as required by applicable California law. Proceeds from Ranch rentals are used, in part, to defray the cost of medical treatment for WADSWORTH, who is a disabled Vietnam-era Marine Corps veteran suffering from AIDS.

9. On August 25, 1994, Plaintiff JOHNSON executed a written lease contract with the Katie Hirning For Congress Campaign for a September 17, 1994, fundraiser for Ms. Hirning, the Democratic candidate for the November, 1994, 4th Congressional District election, in which she opposed incumbent Republican Congressman John Doolittle. Pursuant to governing provisions of Defendant Central Committee's bylaws and of the CEC, the contract specifically provided that the names of neither JOHNSON nor WADSWORTH would appear thereon. The consideration for the contract was $100, the fundraiser was held as scheduled and neither JOHNSON nor WADSWORTH took part therein except as lessors of the Ranch.

10. On September 5, 1994, one week before the regularly scheduled meeting of Defendant Central Committee, Plaintiffs JOHNSON and WADSWORTH learned that JOHNSON's father had died in Ohio that day. Both Plaintiffs immediately made plans to travel to Ohio to attend the funeral and advised Defendants SCHUMACHER and LAVETA STELZMILLER thereof by telephone and FAX that same day, noting it was possible each would not be able to attend the September 12, 1994, meeting, to which no Defendant responded. WADSWORTH did not travel to

Ohio due to his need to receive regularly scheduled experimental medical AIDS treatment at Marshall Hospital. Such treatments are lengthy, painful and leave the patient feeling weak and nauseous for several days after administered.

11. Plaintiff WADSWORTH underwent such treatment beginning at 11:00 am on September 12, 1994, and appeared at the meeting of Defendant Central Committee at 7:30 p.m. that same day. The meeting was called to order by Defendant TITUS and proceeded with its business, including the election of Defendant BECKER to the Central Committee, until WADSWORTH began to feel ill. WADSWORTH then gave the Central Committee a check in the amount of $69.75, representing the closing balance from his reelection campaign committee, Riff Raff Republicans PAC, pursuant to operative provisions of the CEC and left. Prior to that point in the meeting, neither its notice, agenda nor any discussion once underway gave WADSWORTH any sign that any action was to be taken against him.

12. Thereafter, under the direction of Defendant TITUS, Defendant Central Committee purported to go into "Executive Session," despite any provision therefor in the governing bylaws of the Central Committee or the CEC, where Defendant EMIGH initiated discussion of Plaintiffs JOHNSON's and WADSWORTH's role in the Hirning fundraiser held at the Ranch and moved that each be removed from the Central Committee for allegedly failing to support Republican candidates and for providing support to Democratic candidates. After discussion supporting the motion from Defendants CARLSON and BECKER, the motion was passed as follows:

. AYES: 13 (BAILEY, BECKER, BORBA, CARLSON, CHRISMAN, DELLINGER, EMIGH, FRENN,

GRIBKOFF, HANLEY, L. STELZMILLER, J. STELZMILLER & TITUS; CHARDI, alternate)

NAYS: 1 (Gilmore) ABSTENTIONS: 3 (Aguiar, Collens & Messenger)

Plaintiffs are informed, believe and allege thereon that Defendant KNOWLES instructed, prevailed upon or otherwise influenced Defendants BECKER and LAVETA STELZMILLER to vote for Plaintiffs' ouster.

13. Defendant Central Committee never informed either Plaintiff of its action in removing them; they learned of it through at least two articles in the local press, which quoted Defendant TITUS as stating both Plaintiffs were "unanimously ousted." While WADSWORTH vowed to continue as a Republican and, in January, 1995, to take his seat on the Central Committee he had won in the June, 1994, primary, JOHNSON resigned his longstanding Republican party membership in disgust and re-registered as a Democrat.

14. Plaintiffs are informed and believe, and allege thereon, that on or between December 31, 1994, and January 3, 1995, Defendant LAVETA STELZMILLER mailed notice to members of Defendant Central Committee of its January 9, 1995, Organizational Meeting. Enclosed in that notice was a proposed resolution urging the dismissal of Doug Wheeler as Secretary of the California State Resources Agency, but no agenda or any other document relating to matters to be considered at the January 9, 1995, meeting. At the Organizational Meeting, Plaintiff WADSWORTH was sworn into his elected office as member for Supervisorial District III of the Central Committee and Defendants TITUS, SCHUMACHER, BECKER and

GRIBKOFF were elected Chairman, Vice-Chairman, Secretary and Treasurer, respectively. While it is, and has been, customary for those elected officials, including, but not limited to Defendant KNOWLES and Congressman John Doolittle, who have the right to appoint members to the Central Committee under CEC §§7250-7470 to do so at this Organizational Meeting, neither Defendant KNOWLES nor Congressman Doolittle then did so.

14. At the January 9, 1995, meeting, an Organizational Agenda given to those present listed "Adoption of By-laws" as item III, but a copy of the proposed bylaws was not included with the notice. Although Plaintiff WADSWORTH objected to the consideration of these proposed bylaws as out of order, because of this lack of adequate notice, Defendant TITUS ruled his objection out-of-order and Defendant SCHUMACHER's motion to adopt the bylaws was seconded by Defendant CARLSON and approved. A true and correct copy of the new bylaws adopted by Defendant Central Committee on January 9, 1995, is attached hereto as Exhibit A.

15. Plaintiff WADSWORTH is informed and believes, and alleges thereon, that Defendant TITUS had directed Defendant BECKER to draft these new bylaws in advance of the January 9, 1995, meeting and that other Defendants hereto, including, but not limited to Defendants EMIGH and KNOWLES, but not including WADSWORTH, knew that the new bylaws would be so drafted and presented for adoption on January 9, 1995. Defendant EMIGH then stated his intention to seek removal of WADSWORTH at Defendant Central Committee's next meeting, set for February 13, 1995, purportedly under bylaw Article XIX "for engaging in actions injurious to the Committee."

16. On February 6, 1995, Defendant BECKER mailed a notice of the February 13, 1995, meeting to all members of Defendant Central Committee, accompanied by an agenda which listed as item IXA "Disciplinary Action." At the meeting, Defendant EMIGH moved, and Defendant CARLSON seconded, the removal of Plaintiff WADSWORTH "for engaging in actions deemed injurious to" the Central Committee. After discussion of the motion from, among others, Defendants BECKER, CARLSON, and EMIGH and SCHUMACHER, including, but not limited to, alleged statements made and actions taken by WADSWORTH prior to January 9, 1995; statements criticizing the Central Committee allegedly made by WADSWORTH and overheard by Defendant SUSAN EMIGH, wife of Defendant EMIGH, in a restaurant on January 19, 1995, and thereafter memorialized by her in "sworn testimony" not produced at the meeting; a December 15, 1995, letter allegedly sent by Katie Hirning to her "supporters," which letter was neither then shown to WADSWORTH nor seen by him at any time prior or since the meeting; concern that the Central Committee beware of expelling members who rent property to Democrats, in light of SCHUMACHER's regularly renting property jointly owned by him and a registered Democrat to Democrats; and Defendant KNOWLES' admission to SCHUMACHER that his reason for pushing, directly or indirectly through his aide BECKER and other members or appointees to the Central Committee, the removal of WADSWORTH therefrom was due to his "being homosexual," the motion was passed as follows:

AYES: 9 (BECKER, CARLSON, COWELL, DELLINGER, EMIGH, GRIBKOFF, SCHUMACHER, J. STELZMILLER & TITUS)

NAYS: 3 (Colvin, Gilmore & WADSWORTH)

ABSTENTIONS: 1 (CHRISMAN)

Plaintiffs are informed, believe and allege thereon that Defendant KNOWLES instructed, prevailed upon or otherwise influenced Defendant BECKER to vote for Plaintiff's ouster. Thereafter, on March 13, 1995, Defendant LAVETA STELZMILLER and Cecil Ringgenberg were elected to fill the seats of JOHNSON and WADSWORTH by acclamation of those members of the Central Committee then present. Plaintiffs are informed, believe and allege thereon that the Defendants present at this meeting knew that LAVETA STELZMILLER had failed to win enough votes in the June, 1994, primary to be elected to the Central Committee, but elected her to membership despite this knowledge and in direct contravention of the will of the electorate, as shown on Exhibit C hereto.

17. Said Defendants', and each of their, aforesaid acts or omissions towards Plaintiffs JOHNSON and WADSWORTH were intended to cause injury to said Plaintiffs, or, alternatively, were done recklessly or with a knowing, willful, grossly negligent and conscious disregard of the consequences to all Plaintiffs' personal and Constitutional rights and well-being, in an oppressive, malicious, overbearing, despicable, deliberately indifferent and demeaning manner so as to entitle all Plaintiffs to awards of punitive damages against said Defendants, and each of them, in the jury's discretion, according to the legal standards governing the respective causes of action pled herein.

18. As a proximate result of Defendants', and each of their acts or omissions, Plaintiffs JOHNSON and WADSWORTH were damaged generally and specially by suffering physical and severe mental injuries, including, but not limited to, pain, nausea, nervousness, fear, shock,

outrage, anguish, humiliation, embarrassment, alienation, helplessness and despair; and all Plaintiffs were damaged by suffering loss of their electoral rights, all in sums to be proven at trial.

19. In doing the acts and omissions at the times and places aforesaid, Defendants and each of them, conspired among themselves, and/or with others and/or in degrees presently unknown to Plaintiffs, to damage and deprive all Plaintiffs of their personal and Constitutional rights. Said Defendants, and each of them, had knowledge of and agreed to both the means and ends of injuring Plaintiffs, either expressly or tacitly; committed the wrongful acts and/or omissions alleged herein pursuant to such knowledge and agreement and damaged all Plaintiffs thereby.

20. The legal remedy of damages available to Plaintiffs provides them only with partial, not full, relief, since Defendants' conduct towards Plaintiffs JOHNSON and WADSWORTH evidences a continuing and unremitting pattern of abuse and prejudicial discrimination on the basis of their sexual orientation, actual, as exaggerated and/or as perceived. More than a substantial likelihood of future violations of all Plaintiffs' statutory, personal and constitutional rights is shown by Defendants' arbitrary and capricious ouster of WADSWORTH from Defendant Central Committee; Defendants' refusal to seat him thereon ignores the mandate of the electorate and constitutes an active and ongoing violation of their rights as aforesaid. All Plaintiffs will therefore continue to suffer substantial, immediate and irreparable harm in the form of their effective disenfranchisement, which harm can only be ended by an award of mandamus or injunctive relief, which when coupled with damages and declaratory relief, will give full relief to all Plaintiffs.

CLASS ACTION ALLEGATIONS

21. Plaintiffs JOHNSON and WADSWORTH bring this action on behalf of themselves and all persons similarly situated, who together form the class of registered Republican voters in Supervisorial District III of El Dorado County who voted for said Plaintiffs for membership on Defendant Central Committee in the June, 1992 and 1994, primary elections and whose votes were thereafter twice nullified by the acts of Defendants, and each of them, as aforesaid.

22. This case satisfies the requisites of FRCVP 23a as follows:

Numerosity - The class has a membership of between 1,500 and 2,500 persons, as based upon election returns from the June, 1992 and 1994, primaries in which Plaintiffs JOHNSON and WADSWORTH were elected.

Commonality - The damages suffered by both named Plaintiffs and the members of they class they represent stem from the same nucleus of operative facts pled above. Specifically, all members share the prejudice to and dilution and deprivation of their rights as voters effected by Defendants' twice removing both named Plaintiffs from Defendant Central Committee, and all members would benefit by equitable relief restoring Plaintiff WADSWORTH to his elected seat on Defendant Central Committee, by declaring the new bylaws inoperative in whole or in part and by awarding money damages as prayed for.

Typicality - Named Plaintiffs uniquely satisfy this requirement as longstanding registered Republicans who reacted to Defendants' actions in divergent ways that span the range of responses of unnamed class members to

Defendants' acts. Thus, the likelihood that named Plaintiffs possess both the same interest and have suffered the same injury as the unnamed class members is increased, not lessened, by their different reactions to Defendants' acts, which comprise the same events and provide the same basis for legal and equitable relief for all Plaintiffs' claims. Given the conspiracy allegations pled, typicality is also satisfied. Moreover, the allegations clearly show actual injuries to named Plaintiffs and any deficiency in degree between the injuries suffered by named Plaintiffs and those by unnamed Plaintiffs enhances named Plaintiffs' ability to act adequately as class representatives.

Adequacy of representation - That the proposed class is formed of voters who twice elected named Plaintiffs to the positions from which Defendants ousted them is the best indicator they will "fairly and adequately protect the interests of the class." Plaintiffs' counsel is well qualified, as shown by his resume attached hereto as Exhibit B, and as by his kinship in the group discriminated against by Defendants: gay, politically active members of the Republican party.

23. This case is maintainable as a class action under the provisions of FRCVP 23b2 since Defendants have acted in a manner generally affecting the class, making equitable and declaratory relief appropriate to the class as a whole, with such ancillary awards of money damages allowable as deemed just according to proof.

1st CAUSE OF ACTION -
CIVIL RIGHTS (42 USC §1983)
(By All Plaintiffs Against All Defendants)

24. Plaintiffs incorporate as though fully set forth

herein Paragraphs 1 through 23, inclusive, of this Class Action Complaint.

25. In doing the things heretofore alleged, Defendants, and each of them, knew or should have known that ousting named Plaintiffs from Defendant Central Committee was done without reasonable and probable cause or other justification, in arbitrary and capricious abuse of legitimate legal processes and in violation of clearly and long established rights guaranteed to all Plaintiffs under the I and XIV Amendments to the Constitution of the United States, since named Plaintiffs had twice been elected to the Central Committee by their fellow registered Republicans; since the bylaws drafted by Defendant BECKER and purportedly adopted by the Central Committee on January 9, 1995, both as written and enforced, were overbroad, vague and incapable of Constitutional comprehension; and since the enforcement of those bylaws against Plaintiff WADSWORTH under the provisions of CEC §§7250-7470 and 18540-18700, violated all Plaintiffs' I and XIV Amendment rights without rational connection to any legitimate purpose.

26. In so acting, in conspiring with their co-Defendants to so act and in failing to prevent their co-Defendants from so acting, Defendants, and each of them, willfully, recklessly, deliberately, callously, indifferently and/or grossly negligently deprived all Plaintiffs of their fundamental I Amendment rights of freedom of speech, expression and association, and of their right to participate in the electoral and political process by peaceably assembling and petitioning their government for redress of grievances by twice invalidating Plaintiffs' election of Plaintiffs JOHNSON and WADSWORTH to the Central Committee by ousting them therefrom as aforesaid and thereby stifling political debate in and electoral input to Defendant Central

Committee. Defendants likewise deprived all Plaintiffs of their fundamental XIV Amendment rights against abridgement of their privileges or immunities as citizens of the United States and deprived all Plaintiffs of their protected liberty interests in a republican form of government without due process of law by twice invalidating Plaintiffs' election of Plaintiffs JOHNSON and WADSWORTH to the Central Committee by ousting them therefrom as aforesaid, in violation of their fundamental rights to participate in the electoral process by casting votes and having those votes count and determine who their elected representatives will be, without subsequent invalidation except as done in a manner consistent with due process and rationally related to some legitimate interest.

27. To the extent that Plaintiffs must so plead against Defendant Central Committee, but without in any way admitting any legal requirement that they do so or waiving their challenge to such requisites, the aforesaid acts and omissions of Defendants, and each of them, were performed or suffered to occur under written and unwritten, pervasive and unequally applied customs and policies of the Central Committee which, among others, were directed against homosexuals and their friends and supporters solely by nature of their status, and not by nature of their conduct, and which sought to squelch any difference of opinion or dissent, however raised, from a supposed "official party line," whether arising in, or imposed upon from without, the Central Committee. If not actually instituted by, said customs or policies, among others, were ratified and allowed to continue, fester and multiply by Defendants KNOWLES, CARLSON, EMIGH and TITUS before and after the two ousters complained of herein occurred, as shown by the history of discrimination against both named Plaintiffs and others and by the refusal of Defendant TITUS

to publicize meetings of the Central Committee in advance, as duly, moved, seconded, passed and funded in an earlier meeting of the Central Committee, thereby further insulating the Central Committee from representing its constituents and further institutionalizing such customs and practices.

28. Defendants', and each of their, acts or omissions were done under color of state law, including but not limited to CEC §§7250-7470 and 18540-18700, and the 1995 bylaws adopted pursuant thereto, and of their authority as elected members of Defendant Central Committee and deprived Plaintiffs of the rights guaranteed them under the I and XIV Amendments to the U.S. Constitution without due process and/or equal protection of law and of the substantive rights guaranteed thereunder. As a proximate result of the conduct of said Defendants, and each of them, all Plaintiffs were and remain damaged as aforesaid, and are entitled to recover as alleged herein, including reasonable attorney's fees pursuant to 42 USC §1988 and punitive damages under governing standards of federal law.

2nd CAUSE OF ACTION - VIOLATION OF CALIFORNIA CONSTITUTIONAL RIGHTS
(By All Plaintiffs Against All Defendants)

29. Plaintiffs incorporate as though fully set forth herein Paragraphs 1 through 28, inclusive, of this Class Action Complaint.

30. By their acts and omissions as aforesaid, Defendants, and each of them, violated all Plaintiffs' rights of freedom of speech and equal protection as guaranteed under Article I, Secs. 2 and 7, of the California Constitution. As a proximate result of said Defendants' conduct, all Plaintiffs were and remain damaged as aforesaid, and are

entitled to recover as alleged herein, including reasonable attorney's fees and punitive damages as allowed by law.

3rd CAUSE OF ACTION - UNRUH CIVIL RIGHTS ACT (CAL. CIVIL CODE §§51-52.1)
(By All Plaintiffs Against All Defendants)

31. Plaintiffs incorporate as though fully set forth herein Paragraphs 1 through 30, inclusive, of this Class Action Complaint.

32. At all times relevant hereto, Defendant Central Committee was and is a business enterprise engaged in promotion of Republican candidates and political interests in El Dorado County, headquartered at 3181 Cameron Park Blvd., Suite 107, Cameron Park, California, as shown, inter alia, by its raising and disbursing funds, contracting for goods and services, employing and reimbursing persons and companies and by being regulated, both in its membership and in its operations, by the aforesaid provisions of the CEC.

33. Plaintiffs JOHNSON and WADSWORTH are informed and believe, and allege thereon, that the reasons, among others, for the aforesaid unreasonable and wrongful acts of differential treatment, discrimination and deprivation of their protected personal and property rights was their sexual orientation as gay males who legitimately exercised their legal and political freedoms of expression and association on and off Defendant Central Committee according to their own beliefs consistent with the laws of the United States and of California and of the properly adopted bylaws of Central Committee, but not in accord with any actual or purported "party line" imposed or ratified by Defendants herein.

34. As a result of Plaintiffs JOHNSON's and WADSWORTH's exercise of their rights as aforesaid, they were expelled from Defendant Central Committee by Defendants, and each of them, to their own, and all Plaintiffs' damage as to be shown at trial. Defendants' wrongful conduct is continuing since Plaintiff WADSWORTH remains expelled from the Central Committee, despite his clear, elected eligibility for membership thereon, since those voters who elected him thereto have effectively had their votes nullified by the acts and omissions of Defendants, and each of them, and since the new bylaws purportedly adopted on January 9, 1995, remain in force and effect, thereby increasing the likelihood they will be used to deprive others of similar rights on the Central Committee in the future. For these reasons, an award of damages, equitable and declaratory relief is just and proper, as more specifically prayed for herein.

4th CAUSE OF ACTION - NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS
(By All Plaintiffs Against All Defendants)

35. Plaintiffs incorporate as though fully set forth herein Paragraphs 1 through 34, inclusive, of this Class Action Complaint.

36. As a proximate result of the negligent acts or omissions of Defendants, and each of them, Plaintiffs suffered severe humiliation, embarrassment, chagrin, anger and emotional distress and have been injured in mind and body by suffering headaches, nervousness, sleeplessness, and feelings of personal and political helplessness, alienation, frustration and despair, all to Plaintiffs' damage as aforesaid so that Plaintiffs are entitled to recover as alleged herein.

5th CAUSE OF ACTION - INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS (By Plaintiffs JOHNSON & WADSWORTH Against All Defendants)

37. Plaintiffs incorporate as though fully set forth herein Paragraphs 1 through 36, inclusive, of this Class Action Complaint.

38. The acts or omissions of Defendants to this cause of action, and each of them, were intentional, outrageous, despicable, oppressive and malicious and were done in conscious or reckless disregard of Plaintiffs' well-being and personal and political rights for the sole purpose of causing Plaintiffs severe emotional distress. Further, Defendants knew, or should have known, that subjecting a person with AIDS, such as Plaintiff WADSWORTH, to their acts and omissions, would stress and weaken his already compromised state of health and well-being.

39. As a proximate result of these acts or omissions of Defendants, and each of them, Plaintiffs suffered severe humiliation, embarrassment, chagrin, anger and emotional distress and have been injured in mind and body by suffering headaches, nervousness, sleeplessness, and feelings of personal and political helplessness, alienation, frustration and despair, all to Plaintiffs' damage as aforesaid and Plaintiffs are entitled to recover as alleged herein. Further, Plaintiff WADSWORTH's already compromised state of health and well-being due to AIDS was stressed and weakened by Defendants', and each of their, acts or omissions, with the result that his life expectancy has been shortened and his T-cell count has dropped dramatically since September, 1994.

6th CAUSE OF ACTION - INTENTIONAL INTERFERENCE WITH BUSINESS INTEREST (By Plaintiffs JOHNSON & WADSWORTH Against All Defendants)

40. Plaintiffs incorporate as though fully set forth herein Paragraphs 1 through 39, inclusive, of this Class Action Complaint.

41. At all times relevant hereto, Defendants, and each of them, knew or should have known that Plaintiffs JOHNSON and WADSWORTH rented out portions of the Ranch and used the proceeds therefrom to help defray the expensive costs of WADSWORTH's AIDS treatment and medication. In acting as aforesaid, Defendants to this cause of action, and each of them, intentionally sought to interfere with said Plaintiffs' legitimate business use of their property and with a significant - and literal - means of WADSWORTH's life support.

42. As a proximate result of these acts by said Defendants, and each of them, Plaintiffs were injured and damaged as aforesaid.

7th CAUSE OF ACTION - INVASION OF PRIVACY (By Plaintiffs JOHNSON & WADSWORTH Against Defendants KNOWLES, CARLSON & TITUS)

43. Plaintiffs incorporate as though fully set forth herein Paragraphs 1 through 42, inclusive, of this Class Action Complaint.

44. At all times herein mentioned, Plaintiffs had a reasonable and legitimate right and expectation of privacy and sanctity in their persons and reputations, private and

commercial. By the acts and omissions above described, Defendants to this cause of action, and each of them, invaded that right, without any reasonable or legitimate privilege or justification whatsoever, by casting Plaintiffs in the false light of disloyal Republicans, "moles," "those homosexuals," "faggots" (by which term is implied a promiscuous, ridiculous male homosexual undeserving of respect), or other negative attributes which lessened the respect Plaintiffs had in their community. Defendant TITUS further cast Plaintiffs in the false light of social and/or political outcasts by his false statement that the September 12, 1994, vote to remove them from Defendant Central Committee was "unanimous," when it was, in fact, not.

45. As a proximate result of these acts by said Defendants, and each of them, Plaintiffs were injured and damaged as aforesaid. Said Plaintiffs further suffered special damages in the form of lost rental income from the Ranch as a proximate result of Defendants,' and each of their, false statements, and other items of special damage stemming from their loss of standing in their community, as to be shown at trial.

8th CAUSE OF ACTION - DEFAMATION
(By Plaintiffs JOHNSON & WADSWORTH Against Defendants KNOWLES, CARLSON & TITUS)

46. Plaintiffs incorporate as though fully set forth herein Paragraphs 1 - 45, inclusive, of this Class Action Complaint.

47. By their statements, acts and omissions above described, Defendants to this cause of action, and each of them, defamed Plaintiffs, without any reasonable or legitimate privilege or justification whatsoever, by calling

Plaintiffs disloyal Republicans, "moles," "those homosexuals," "faggots" (by which term is implied a promiscuous, ridiculous male homosexual undeserving of respect), or otherwise uttered and/or caused to be printed words causing them to be shunned, derided and eventually ejected negative attributes that lessened the respect Plaintiffs had in their community. Defendant TITUS further defamed by his false statement that the September 12, 1994, vote to remove them from Defendant Central Committee was "unanimous," when it was, in fact, not.

48. Some or all of these defamations were heard by both co-Defendants and non-parties hereto, who understood them to be defamatory as to Plaintiffs JOHNSON and WADSWORTH.

49. As a proximate result of these acts by said Defendants, and each of them, Plaintiffs were injured and damaged as aforesaid. Said Plaintiffs further suffered special damages in the form of lost rental income from the Ranch as a proximate result of Defendants,' and each of their, false statements, and other items of special damage stemming from their loss or standing in their community, as to be shown at trial.

9th CAUSE OF ACTION -
DECLARATORY RELIEF (28 USC §2201)
(By All Plaintiffs
Against All Defendants Except KNOWLES)

50. Plaintiffs incorporate as though fully set forth herein Paragraphs 1 through 49, inclusive, of this Class Action Complaint.

51. An actual controversy has arisen and now exists

between the parties relating to the legal rights of all Plaintiffs and all Defendants in relation to the validity of the new bylaws adopted at the January 9, 1995, meeting of Defendant Central Committee, for which Plaintiffs desire a declaration of rights, including, but not limited to, a finding by this Court that said bylaws are null, void and unenforceable.

52. A declaratory judgment is necessary since Plaintiffs contend that the bylaws are inherently infirm and inconsistent with the U.S. and California Constitutions, as written, adopted and/or applied, and Defendants, and each of them, deny the same.

10th CAUSE OF ACTION -
COMMON LAW FAIR PROCEDURE
(By All Plaintiffs Against All Defendants)

53. Plaintiffs incorporate as though fully set forth herein Paragraphs 1 through 52, inclusive, of this Class Action Complaint.

54. By virtue of the long-established provisions of the common law, Plaintiffs JOHNSON and WADSWORTH had and have a right to be afforded the benefits of fair procedure, including, but not limited to, the rights of prior and adequate notice and the opportunity to defend themselves and present and examine witnesses and documentary evidence in a fair and neutral hearing, before suffering any deprivation of their associational rights as members of Defendant Central Committee.

54. As a proximate result of Defendants,' and each of their, acts and omissions aforesaid, Plaintiffs were damaged and are entitled to recover as alleged herein.

WHEREFORE Plaintiffs pray for trial by jury and damages as follows:

1. For general damages;
2. For special damages according to proof;
3. For fines, penalties, costs, pre- and post-judgment interest and attorneys fees according to law;
4. For punitive damages against all Defendants, including both statutory and discretionary punitives;
5. For a permanent injunction and/or issuance of a writ of mandamus directing Defendants to reinstate Plaintiff WADSWORTH to Defendant Central Committee;
6. For a declaration of the rights and duties of the parties in relation to the new bylaws adopted January 9, 1995, and for a declaration that said bylaws' are invalid and have been without effect;
6. For such other and further relief as proper.

/s/

LAW OFFICES OF G. MICHAEL GERMAN
Attorney for Plaintiffs